

REGULAR MEETING NORTH SMITHFIELD TOWN COUNCIL

JANUARY 19, 2010

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously (3 to 0) on a roll call vote to nominate Dr. Benoit as the President Pro Tem. (Both Mr. Lovett and Mr. Leclerc were unable to attend.)

GOOD & WELFARE

Charter Review Commission

Robert Thurber of 20 Brian Avenue questioned if all members of the Charter Review Commission are required to live in town.

Redevelopment Agency Ordinance

Mr. Thurber asked who put this ordinance together and why were there so many questions on the language.

H1N1 Clinic

Mr. Biron extended his appreciation to EMA Director Peter Branconnier and the Emergency Management Agency members for their assistance at the flu clinic.

REGULAR MEETING

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Dr. Benoit, Mr. Biron and Mr.

Zwolenski. Mr. Leclerc was out of state and Mr. Lovett had a business commitment.

ANNUAL AUDIT REPORT

Because it was thought that there would be no heat in the building tonight, the auditors were asked to reschedule to February 1, 2010.

APPROVAL OF MINUTES

MOTION by Mr. Biron and seconded by Mr. Zwolenski to accept the minutes of December 21, 2009 and January 4, 2010 as presented.

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Mr. Zwolenski asked that the minutes of January 4th regarding abatements be corrected to note that he had asked that future lists include names and plats and lots.

The motion passed unanimously on an aye vote.

PAYMENT OF BILLS

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to approve payment of the following: General Fund - \$207,423.24; Sewer - \$1,350.74; Water - \$47,897.08; Wire Transfer School Department - \$1,417,960.00 and Wire Transfer Fire Department - \$200,146.67 for a total of \$1,874,777.73.

AWARD OF BID – IT CONTRACT FOR NS POLICE DEPARTMENT

Mrs. Hamilton noted an ad had been place for a Request for Proposal. She received one legitimate response from Bruce R. Senecal d/b/a Vaulted Computer Services and two that were resumes only.

MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted unanimously on a roll call vote to approve the contract to Bruce R. Senecal d/b/a Vaulted Computer Services subject to review by the Town Solicitor, an insertion making it a two-year contract, and subject to execution by the Town Administrator.

STREET LIGHTS

Mrs. Hamilton explained that 72 out of 1500 lights have been removed throughout the town. This equals the five percent cap set by National Grid for this year. She has received rational requests from six residents to turn particular lights back on.

Dr. Benoit asked that if those six lights are returned could there be six others to shut off.

Mr. Biron thought there were five lights on Providence Pike near the football field that could be removed.

LIZ DEVELOPMENT

Mr. Nadeau commented that this should only be discussed in executive session.

CHERRY BROOK/STORMWATER MANAGEMENT

Town Planner Robert Ericson spoke about several parcels of land off of Route 146 that may be donated to the town. They are primarily wetlands that could provide an emergency flood storage reservoir in a 25-100 year storm. On one parcel is a culvert that, with the addition of a temporary 10-foot two-inch x 12 inch flashboard, may possibly provide more storage capacity if needed.

The Department of Environmental Management found one non-recurring wetlands violation in the 1970s.

Mr. Ericson has also asked the North Smithfield Police Department for accident data on Route 146 between the Greenville Road and Pound Hill Road exits to check for hazardous material spills.

GILBANE/RGB TASK ORDER 5 FEASIBILITY

Mr. Nadeau had spoken with School Committee Member Paul Vadenais who asked that this be continued to February 1, 2010.

CHARTER REVIEW COMMISSION MINUTES

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to accept and place on file the minutes of January 6, 2010.

PERSONNEL BOARD MINUTES

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted

unanimously on an aye vote to accept and place on file the minutes of November 9, 2009.

SEWER COMMISSION MINUTES

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to accept and place on file the minutes of November 30, 2009.

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FISCAL YEARS 2009, 2010 AND 2011 BUDGETS

Mrs. Hamilton noted that if the legislature proceeds with withholding the third and fourth quarter excise taxes from the cities and towns, North Smithfield will lose approximately \$988,000 in revenue.

APPOINTMENTS TO HISTORIC DISTRICT COMMISSION

There were no appointments.

APPOINTMENT TO ORDINANCE REVIEW COMMISSION

There was no appointment.

GRACE PERIOD FOR TAX PAYMENTS

Dr. Benoit is not pleased that the town does not offer a grace period for late payment of taxes. He noted that interest accrues back to the first due date. Dr. Benoit has learned that the towns of Burrillville and Smithfield have grace periods and he would ask, as a minimum, that the town state in bolder type the due dates and penalty information

on the bills.

Mr. Zwolenski concurred and asked if the Finance Department could return with more information.

RESOLUTION RE: RELIEF FROM UNFUNDED MANDATES

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to adopt the following resolution:

“WHEREAS, Rhode Island General Law 45-13-7 (RIGL) defines “State mandate” as “any state initiated statutory or executive action or rule, regulation or policy adopted by a state department or agency or a quasi-public department or agency that requires a local government to establish, expand, or modify its activities in a way as to necessitate additional expenditures from local government revenue sources where the expenditures are not otherwise reimbursed in whole.

“[S]tate mandate” shall also mean any requirement, rule or dictate by a regulator of a state agency; and WHEREAS, RIGL 45-13-10(a) specifies that State mandates not subject to reimbursement includes: (1) The holding of elections; (2) The assurance of due process; (3) The notification and conduct of public meetings; (4) The procedures for administrative and judicial review of actions taken by cities and towns; (5) The protection of the public from malfeasance, misfeasance, or nonfeasance by local government officials; (6) Financial administration, including the levy, assessment, and collection of taxes; and (7) The preparation and submission of reports necessary for the efficient administration of state laws; and

WHEREAS, The Town of North Smithfield has been required over the course of years to provide services and expend sums on programs not of its design for numerous State mandates, and WHEREAS, At this time the State of Rhode Island is requiring North Smithfield to supply taxpayer money to continue subsidizing unfunded State mandates while the State withholds previously budgeted reimbursements to the Town, and WHEREAS, The Town of North Smithfield has budgeted in the current fiscal year with reliance upon funds the State may now withhold, and WHEREAS, The Town of North Smithfield is currently budgeting for the next fiscal year with a lack of certainty as to ongoing reimbursement from the State, and WHEREAS, The Town Administrator and the Town Council have a fiscal responsibility to the taxpayers of the Town of North Smithfield to provide core services, and WHEREAS, This responsibility is now in jeopardy due to declining State revenues and the ongoing State mandates. NOW, THEREFORE, BE IT HEREBY RESOLVED that the North Smithfield Town Council requests that the North Smithfield delegation to the General Assembly submit legislation to give the Town immediate relief from the following unfunded State mandates:

- 1. RIGL 16-2-21.4. The “Caruolo Act.” “[W]henver a . . . school committee determines that its budget is insufficient”, this Act provides a mechanism for School Departments to petition the Commissioner of Education for level funding and to subsequently bring a court action against a municipality over funding issues. This law is contrary to the notion of a community collectively deciding its level of funding for education.**
- 2. RIGL 16-7-23. Level School Support**

of the School Committee's Budget by the Town, so-called "Maintenance of Effort." This law requires "each community [to] contribute local funds to its school committee in an amount not less than its local contribution for schools in the previous fiscal year." In so doing this law requires a Town to fund a

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school district at the same level as the previous year regardless of economic factors or other factors. This law is also contrary to the community controlling its own fate with respect to local funding. 3. RIGL Chapter 44-3. Motor Vehicle Excise Tax. This law requires the Town to exempt the first \$6,000 of every automobile from excise tax. In exchange, the State has reimbursed cities and towns for this lost revenue source. Now that the State is proposing to terminate reimbursement, cities and towns should be relieved of this credit and given the taxing authority unto themselves. 4. RIGL 44-5-2. Levy and Assessment of Local Taxes. In 2006 this law was amended to introduce a cap on the amount of taxes a Town could levy, with increasing reductions from year to year. Specifically, the amount levied by a city or town was 5.5% in fiscal year 2007, decreasing by .25% each fiscal year until reaching 4% in fiscal year 2013, and continuing at that rate into the future. These decreases were arbitrary and not tied to factors such as local growth or significant changes in economic factors. The annual municipal tax cap should be tied to the individual tax rate so as to protect individuals from large tax

increases and it should not be tied to the tax levy, which does not allow the Town to realize greater tax revenue even if the Town's grand list grows.

5. RIGL 37-13-8. Prevailing Wages. While the Davis-Bacon Act, 40 U.S.C. 267a, is a Federal Statute, the State has not modified its excessive provisions and passes unreasonably large wage payments onto the Town. At RIGL 37-13-8 the Director of Labor and Training is mandated to "investigate and determine the prevailing wages and payments made to or on behalf of employees. . .paid in the trade or occupation in the city, town, village. . .and keep a schedule on file." The provision puts burdens onto the contractor as well, by requiring that "each contractor awarded a public works contract after July 1, 2007, shall contact the Department of Labor and Training on or before July first of each year, for the duration of such contract to ascertain the prevailing wage rate of wages on an hourly basis and the amount of payment or contributions paid or payable on behalf of each mechanic, laborer or worker employed upon the work contracted to be done each year and shall make any necessary adjustments to such prevailing rate of wages and such payment or contributions paid or payable on behalf of each such employee every July first." The Town of North Smithfield would like to move all jobs under \$50,000 to be exempt.

6. RIGL 45-6-1. Municipal costs associated with supplying legislators with copies of local ordinances.

State law should allow the information to be electronically transmitted, thereby eliminating the cost of postage and paper.

7. RIGL 33-15-4.1. When "Good Samaritan" guardianships are sought, local probate courts must prepare all the forms necessary as part of

the application process. Most probate clerks are advised by their judges not to try to “practice law” and strongly suggest that petitioners seek the advice of legal counsel. State law should require attorneys whose services are sought for “Good Samaritan” guardianships to provide such services pro bono. 8. RIGL 45-6-7. Publication of Ordinances. Requires the distribution of printed municipal ordinances to the state library rather than allowing the information to be electronically disseminated. 9. RIGL 33-3-14. Requires local probate courts to issue a certificate of descent to devisees or heirs at law when the court grants the administration of the estate of any decedent owning real estate, despite the fact that the law does not provide that the court issue the certificate but that the fiduciary provide the certificate or an affidavit of no real estate to the court. 10. RIGL 17-19-23.1. Certification and appointment of election officials. Requires that all persons who attend and complete a program of instruction for election officials shall receive a certificate issued by the Board of Elections and shall receive the sum of \$25.00 for said attendance. The cities and towns are required to pay these sums. 11. RIGL 1-3-14. Towns with an airport within their jurisdiction. Where “advisable” to facilitate the enforcement of zoning regulations adopted pursuant to this chapter, any political subdivision in which an airport hazard area is located must establish a system for the granting of permits to establish or construct new structures and other uses and to replace existing structures and other uses or to make substantial changes or substantial repairs. 12. RIGL 46-31-10. Compliance with Water & Navigation plans by local

municipalities. The statewide planning program established pursuant to the provisions of RIGL Title 42 shall advise the Watersheds Coordination Team on issues of planning in general and also on local comprehensive plans, and shall consider

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recommendations for revisions to the state guide plan from the coordination team as necessary to achieve consistency with the systems-level plan for Rhode Island's bay, rivers, and watersheds.

13. RIGL 45-53-4(4)(c). Affordable Housing Plans – Cities and Towns that were not in conformity with the provisions of §45-53-3(2)(i) and were not exempted by the State, had to prepare by December 31, 2004, a comprehensive plan housing element for low and moderate income housing as specified by §45-53-3(2)(ii), consistent with applicable law and regulation. There are ongoing costs attendant with legal representation before SHAB, enactment of new zoning provisions, etc.

14. RIGL 17-11-1. Division of towns and representative districts into voting districts. The local board of any city or town may, on or before the sixtieth (60th) day preceding any election, divide or redivide the town, or any representative district in the city or town, into voting districts. The local board of each city shall determine voting districts by geographical boundaries and by no other means. No voting district shall at any time comprise parts of two (2) or more wards. It shall be the duty of the board to divide the town, representative district, or ward, so that substantially not more than nineteen hundred (1900) voters shall be served by the same

polling place; provided, that subject to the approval of the state board, a local board may provide for serving more than nineteen hundred (1900) voters in the same polling place serving less than one hundred fifty (150) voters. A polling place may be located either within or without the voting district for which it is established; provided, that a polling place may be located outside the district only upon unanimous determination of the local board and subject to the approval of the state board that a suitable place is not available within the voting district. In making the calculation required by this section, voters whose names are on the inactive list of voters shall not be included. 15. RIGL 45-61.1-2. A storm drainage system that is part of a small municipal separate storm sewer system must be inspected annually. 16. RIGL 42-28.1. Educational incentive pay – law enforcement tuition reimbursement for masters or juris doctorate as part of an incentive pay plan for police officers. 17. RIGL 31-20-10.3(d). Special bus stops – municipal police costs associated with bus stop review, since all school bus routes shall be reviewed by the local police chief of each city and town for safety hazards within ninety (90) days before the start of the school year. 18. RIGL 16-48.1 & RIGL 4-13.2. Police

departments to conduct national criminal records check of child care personnel, both for the care of the very young children and those working in a “youth serving agency” (i.e. any program operated for more than 2 hours/day at least one day a week & which provides programs/activities for children & employs persons who have supervisory authority over a child or children). 19. RIGL 31-12-6.

Costs of high speed pursuit plans which must be submitted to the Attorney General. 20. RIGL 23-17-4 — 27-30. Police departments to conduct national criminal records check of employees hired by health department certified facilities (i.e. assisted living residences, nursing homes, mobile intensive care units & nursing service agencies). 21. RIGL 37-12-10. Retainers relating to contracts for public works, sewer or water main construction – requires a deduction and retainer from the contract price an additional sum sufficient to pay the estimated cost of municipal police traffic control on any public works project, but municipalities shall directly pay the officers working traffic details and shall bill and be reimbursed by the withholding authority for which the contract is being performed every thirty (30) days until the project is complete. Requires cities and towns to directly pay police officers who are working traffic details and to bill and be reimbursed by the withholding authority. 22. RIGL 31-27-4.2. High speed pursuits – requires local police officers who are involved in high speed pursuits to submit written reports to be kept on file; also requires the officer in charge to file a written report of the pursuit. 23. RIGL 30-15-12. Local Emergency Management – each city/town must establish by local ordinance an emergency management agency. 24. RIGL 45-19-1. Salary payment during line of duty illness or injury – allows a police officer to collect a salary when incapacitated due to rendering emergency assistance whether on duty or off duty. 25. RIGL 46-12-4. Sewer treatment plant fees – as part of the State’s pollution monitoring system this carries forward Federal Clean Water Act user fees relative to the operation of the Woonsocket Wastewater

Treatment Facility. 26. RIGL 45-23-25 to 45-23-74. Comprehensive Plan – the RI

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Land Development & Subdivision Review Enabling Act of 1992 requires every city and town to adopt land development and subdivision review

regulations which comply with the act and to update the plan elements every 5 years. 27. RIGL 46-13-18. Mailings to water customers – community water systems serving populations of 10,000 or more must deliver a full copy of the Consumer Confidence Report to each household within the water system’s service area. 28. RIGL 46-13. Recent Rules and Regulations Pertaining to Public Drinking Water propose “Backflow” for public water systems. BE IT FURTHER RESOLVED that the North Smithfield Town Council requests its delegation to submit legislation forthwith, which will relieve the Town and its taxpayers of these unfunded mandates.”

RESOLUTION RE: SIMON CHEVROLET

MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted unanimously on an aye vote to adopt the following resolution that incorporates changes made by the Town Solicitor: “WHEREAS, The Simon Chevrolet franchise has been a mainstay business in the City of Woonsocket for a number of years; and WHEREAS, the General Motors Corporation plans on closing this franchise in October 2010; and WHEREAS, The closing of this business would create a great

financial burden on the citizens of northern Rhode Island, including in North Smithfield and Woonsocket, through loss of jobs and tax revenue. NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF NORTH SMITHFIELD, RHODE ISLAND, AS FOLLOWS: SECTION 1. That the Town Council of the Town of North Smithfield hereby petitions General Motors Corporation to retain the Simon Chevrolet/General Motors franchise in the City of Woonsocket. SECTION 2. This Resolution shall take effect immediately upon its passage by the Town Council.”

APPOINTMENT OF TREE WARDEN

MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted unanimously on an aye vote to reappoint Stanly Zuba as the tree warden for the Town of North Smithfield.

COMMUNICATIONS

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to accept and place on file the following: A.) Animal Control Monthly Report for December 2009; B.) NSF&RS Inc. Monthly Incident Report for December 2009; C.) Resolution Opposing House Bill 5931 and Senate Bill 606, “The Madeline Walker Bill” from the Town of Portsmouth and D.) Resolution Opposing the Hess LNG Proposal for Mount Hope Bay from the Town of Bristol.

EXECUTIVE SESSION

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to move Item B under executive session, Review of Pending Litigation and Counsel and Votes Thereon, to the February 1, 2010 meeting.

MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted unanimously on an aye vote to enter into executive session at 8:00 P.M. pursuant to RIGL 42-46-5(A)(5) Any discussions or considerations related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public to discuss the potential acquisition of land off of Greenville Road.

MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted unanimously on an aye vote to come out of executive session at 8:12 P.M. and to seal the minutes. No motions were made and no votes were taken.

DONATION OF LAND – SILVA ESTATE

MOTION by Mr. Biron, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to refer the request for land donation from the Philip Silva estate to the Planning Board for their review and recommendation.

AWARD OF BID – IT CONTRACT FOR NS POLICE DEPARTMENT

Mr. Nadeau stated he spoke with Bruce Senecal on his way out of the meeting this evening and was told by Sgt. Senecal that he would not be willing to waive overtime pay due to him because he was awarded a contract for two years only.

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This concerned the Council and they are considering holding the contract in abeyance. The Clerk was asked to add this to the February 1st agenda.

MOTION by Mr. Zwolenski, seconded by Mr. Biron, and voted unanimously on an aye vote to adjourn at 8:29 P.M.

(The tape recorder did not record this meeting.)

Respectfully submitted,

Debra A. Todd, Town Clerk